

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROXANNE ELIE,

Plaintiff,

v.

HEALTH CARE AND RETIREMENT
CORPORATION OF AMERICA,

Defendant.

Case No. 05-73071

Honorable Nancy G. Edmunds

ORDER DENYING PLAINTIFF'S MOTION TO STRIKE AND TO REMAND [8]

This matter comes before the Court on Plaintiff's motion to strike Defendant's notice of removal and to remand this case back to the Wayne County Circuit Court. The Court finds that the facts and legal arguments are adequately presented in this motion and opposing brief and that the decision process would not be significantly aided by oral argument. Therefore, pursuant to E. D. Mich. L. R. 7.1(e)(2), it is hereby ORDERED that the motion shall be resolved as submitted. For the reasons set forth below, Plaintiff's motion is DENIED.

Subsequent to removal, Plaintiff filed a motion for leave to amend her complaint to add non-diverse party Defendants. A hearing on that motion has not yet been scheduled. Nonetheless, Plaintiff argues here that, once it is heard, it will be granted, and thus this Court should strike Defendant's notice of removal and remand this matter back to the Wayne County Circuit Court because diversity jurisdiction will be lacking. This Court rejects Plaintiff's arguments because they fail to observe the well-established principle that

removal jurisdiction depends on the facts as they existed at the time of removal. See *Cromwell v. Equicor-Equitable HCA Corp.*, 944 F.2d 1272 (6th Cir. 1991). At the time of removal and currently, complete diversity exists between Plaintiff and Defendant. Accordingly, Plaintiff's motion is DENIED.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: October 6, 2005

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 6, 2005, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager